

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE  
IN AND FOR SUSSEX COUNTY  
COURT NO. 17**

CHANDLER HEIGHTS II  
Plaintiff Below,  
Appellant

VS

JANAE MCDANIEL  
Defendant Below,  
Appelle

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C.A. No. JP17-19-000042

**TRIAL DE NOVO**

Submitted: July 23, 2019

Decided: August 27, 2019

**APPEARANCES:**

Plaintiff represented by David Zerbato, Esq

Defendant represented by Jayce Lesniewski, Esq.

Alan Davis, Chief Magistrate

Richard Comly, Justice of the Peace

Scott Willey, Justice of the Peace

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE  
IN AND FOR SUSSEX COUNTY  
COURT NO. 17**

**CIVIL ACTION NO: JP17-19-000042**

**CHANDLER HEIGHTS II VS JANAЕ MCDANIEL**

**ORDER ON TRIAL DE NOVO**

The Court has entered a judgment or order in the following form:

**Procedural Posture**

Plaintiff, Chandler Heights Apartments, brought this action on January 3, 2019, seeking possession of the property based on a failure to pay rent. The Court scheduled the initial trial on January 24, 2019, where the single judge ruled in favor of the Defendant, Janae McDaniel. Plaintiff brought a timely appeal, and the original trial de novo was scheduled for April 8, 2019. That date was continued until May 28, 2019, at which time the Court heard several hours of testimony but had to adjourn before concluding trial. It was not until July 23, 2019 that the Court and counsel had agreeable schedules for concluding the matter. The panel of Chief Magistrate Davis, Judge Comly and Judge Willey heard the trial de novo. For the reasons stated below the Court finds in favor of the Defendant on the issue of possession but grants a monetary judgment against the Defendant and in favor of the Plaintiff.

**Facts**

Plaintiff provides subsidized housing at its apartment complex. Defendant qualifies for that housing. A condition of that qualification is that defendant must periodically submit to a recertification process, including each time there is a change in her employment circumstances. Part of that recertification process includes the requirement that the housing provider confirm the change in circumstances within a reasonable time period. (See Chapter 7 of the HUD Handbook.)

Defendant was working for a company, called QSI, that provides temporary labor to the chicken industry. Defendant informed Plaintiff that she was no longer working at QSI on November 15, 2018. Plaintiff had trouble getting QSI to confirm Defendant's employment dates and demanded that Defendant get the information to confirm her termination of employment. Defendant apparently made attempts to obtain the verification, but was similarly unsuccessful over a long period of time. Defendant's recertification was pending that whole time, and remained pending to the day of trial.

Eventually, Defendant obtained a letter, ostensibly from QSI's Georgetown office, indicating that her termination date had been 9/27/18. Defendant testified that she received this letter from the assistant of the Georgetown HR manager of QSI. Subsequent testimony from QSI's HR department indicated that the defendant's actual termination date was 10/29/18. Plaintiff claims that Defendant was trying to fraudulently manipulate the recertification process and perpetrate a fraud on the Court with the document she produced.

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In the meantime, Plaintiff had sent a five-day letter demanding past due rent for the months of October, November and December 2018.

### Discussion

Despite the extent of the testimony and actual wrangling over the issue of the date of employment termination with QSI, this case becomes considerably easier once the Court accepts that this letter presented by the defendant, ostensibly attributed to QSI personnel, is not an attempt at fraud. The Court makes that very determination, because the evidence presented by both sides of this matter shows that the Georgetown office of QSI was in a state of some disarray. While the date of termination and the form of the document are not something that QSI's corporate office agrees with or recognizes, even those witnesses conceded that the circumstances were such that this document (hereinafter "Georgetown QSI letter") may well have originated from the Georgetown office. Further, though the defendant was not the most credible witness encountered by the Court, on the issue of making the attempt to obtain the Georgetown QSI letter and the final way that she received it, her testimony seemed quite credible.

With that set aside, it comes to the question of when should the tenant's recertification have taken effect. Again, this is not a difficult matter. If the Georgetown QSI letter is to be used as the benchmark, HUD rules would have required tenant's recertified rent adjustment take effect on October 1, 2018. Similarly, if the QSI human resources personnel information as to her termination date is to be believed, then the recertification should have taken effect as of November 1. At the very latest, tenant informed landlord of the loss of the QSI employment on November 15, meaning, the very latest the recertification should have taken effect is December 1, 2018. Counsel for the Plaintiff even conceded at questioning by the Court at the end of closing argument that, if the December date is the correct effective date for the recertification, then the five-day demand letter was incorrect and was therefore overinflated.

The Court finds, by a preponderance of the evidence, that the five-day letter was overinflated by at least the demand for the month of December and was therefore ineffective. Due to the ineffective demand, the Court finds in favor of the defendant on the issue of possession. The Court finds that the Plaintiff is entitled to a monetary judgment for the months of October and November.

### Judgment

The Court finds in favor of the Defendant on the issue of possession and issues a monetary judgment against the defendant and in favor of the plaintiff in the sum of \$963, plus court costs and post judgment interest at the legal rate.

IT IS SO ORDERED 27th day of August, 2019

/S/ Alan Davis



Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).

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